



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

## THE SOCIAL LIFE OF THE HEBREWS FROM JOSIAH TO EZRA.

---

By PROFESSOR L. W. BATTEN, PH.D.,  
Protestant Episcopal Divinity School, Philadelphia.

---

### II.

IN a previous article, published in the *BIBLICAL WORLD* for June, 1898, the domestic social relations were given brief consideration. In the present paper it remains to consider those factors of the social structure which have to do rather with the life of the community. These are naturally those which affect the church and the state. But the hierarchical institutions could not be adequately considered in a short space; and they are passed over, therefore, except as mentioned in connection with the general community life.

1. *The civil government.*—Down to the exile the king was the head of the government. His power was very great; but there was a check upon it, which increased as the kings became the appointees of a foreign power. Zedekiah desired to shape his policy according to Jeremiah's advice, but he was restrained through fear of the princes. He even persuaded Jeremiah to deceive these in order that he might be spared the dread effects of their displeasure (Jer. 38: 24 ff.; *cf.* vs. 5).

The law required that the king should be a native Israelite; that he should be Jehovah's choice; that he should not burden the people in order to maintain a great estate; that he should not take many wives to turn away his heart; that he was not to be autocratic, but should recognize the law as the norm for himself as well as for the people (Deut. 17: 14 ff.). There was no law that he should be of the Davidic dynasty, nor that the eldest son should succeed.

As a matter of fact, the choice was determined in our period by the popular will, as the selection of Josiah and Jehoahaz

(2 Kings 21:24; 23:30); or by the foreign conqueror, as in the case of Jehoiakim, Zedekiah, and Gedaliah (2 Kings 23:34; 24:17; 25:22). It is highly probable that the assassination of Amon, the predecessor of Josiah, was due to the revolt of the nobles against the religious tyranny of the house of Manasseh.

The kings appointed by Babylon were but vicegerents in an autonomous government. In the post-exilic period there were still governors appointed by the foreign king, but with less power than the pre-exilic vicegerents. Their actual powers seem to have been what they could exact from the people. Ezra is said to have been granted large powers (Ezra 7:25 f.); but he does not appear to have attempted to exercise them. Nehemiah, on the other hand, was able to carry his rule beyond the terms of his appointment.

The king's power was limited by the princes, as above stated, and also by the prophets, priests, and by the mass of the people. The prophets exercised only a moral restraint upon the chief rulers, but it was none the less strong. They exercised a most healthful influence upon Josiah. By Huldah's advice the deuteronomic law was put into effect; and Jeremiah contributed much to the popular knowledge of the law and obedience to it (Jer. 11:1-8). Jeremiah could not persuade Jehoiakim and Zedekiah to follow his counsel; but even these kings were guided by a body of prophets far more numerous, unhappily, than those of Jeremiah's spirit. In the later days it would scarcely have been possible for Zerubbabel to complete the new temple but for the assistance rendered by Haggai and Zechariah.

The priestly influence was great, though it does not come so clearly to the light. There is a story told in Chronicles (2 Chron. 26:18) that the priests forbade King Uzziah to burn incense in the temple. This may not be historical, but it is an indication of the loss of the king's priestly functions as the priesthood increased in power. The fact that the people of the land selected one eligible candidate for the throne rather than another shows a power which a reigning monarch could not wholly disregard. The free spirit of the people who had offered

Rehoboam terms on which they would accept his rule was never wholly broken.

There does not appear to have been any organized popular assembly among the Hebrews; but there was a sort of mass meeting which exercised a considerable power, especially in the post-exilic age. When Josiah made a covenant to obey the deuteronomic law, it was in the presence of a popular assembly, which in turn became a voluntary party to the covenant (2 Kings, chap. 23). The assembly of the people proclaimed an extraordinary fast, at which Jeremiah caused the first edition of his written prophecies to be read (Jer. 36:9). "All the people" constituted part of the court before which Jeremiah was tried (Jer. 26:11, 16). Ezra did not attempt to enforce the divorce of the foreign wives until his plan was ratified by a popular assembly (Ezra, chap. 10). Nehemiah summoned "a great assembly" against the rich Jews who had exacted usury of their poor brethren (Neh. 5:7). The law was read before the people, to teach them, undoubtedly, but also to secure their ratification of it, and their decree to execute it (Neh. 8:1 ff.; 13:1).

The real government in the first century of the post-exilic age was, however, an oligarchy. The leaders were not chosen by the people, but consisted of heads of families. With these and the vicegerent of the Persian king, and often with the priests, the real power resided. It was this body which refused the offer of the Samaritans to aid in the rebuilding of the temple (Ezra 4:3). In the decree of Darius "the governor of the Jews and the elders of the Jews" are given permission to build the house of God (Ezra 6:7).<sup>1</sup> The elders are prominent in Ezekiel; their power appears greatly to have increased in the time when there was no king to exercise sovereign rights.

2. *The judicial system.*—From the earliest times there was a supreme judge who was the court of final appeal. This had been in the first case Moses, and later was the king. The king often

<sup>1</sup> The historicity of much of the book of Ezra, and some of the book of Nehemiah, has of late been seriously called in question by Kisters, Torrey, and others. Their conclusions seem to the writer to go farther than the facts warrant. We may admit a Jewish coloring, but the statements nevertheless hold good for our purpose.

exercised original jurisdiction even in minor matters (1 Kings 3:16 ff.; 2 Kings 6:28 f.). The right of appeal, or reference to a higher court, was exercised, however, not by plaintiff or defendant, but by the judge who found a case too hard for him (Deut. 17:8 f.). It is interesting to note the expectation that a judge would acknowledge a case to be beyond him. How this rule worked in practice we do not know.

The judges constituted a distinct class in the community (Deut. 16:18 *et passim*), though judicial functions were exercised also by priests, princes, and especially by the king. It sometimes appears that a decision was rendered by a court composed of both priests and laymen (Deut. 17:9; 19:17).<sup>2</sup> In the trial of Jeremiah, already alluded to, the priests and the prophets were the prosecutors, while the decision was given by the princes and the people. Ezra was commissioned to "appoint magistrate and judges, which may judge all the people that are beyond the river" (Ezra 7:25). In his time there were judges in every city who were expected to take part in the proceedings of the great divorce (*ibid.*, 10:14).

The judge was a person of great importance,<sup>3</sup> and was looked upon with esteem and awe; but his office, then as now, presented many temptations. Deuteronomy contains much good counsel for the exercise of this function (*e. g.*, 16:18 ff.). From many allusions in the prophets, it would seem that the wealthy classes found it much easier to win their cases than the poor.

In oriental society the laws of evidence were not very rigid. The judge might discover the rights of a case in any way he saw fit. A favorite way, when it was practicable, was to force the parties to a suit to reveal the truth unconsciously, as Solomon, by a pretense of slaying a child in dispute, discovered the true mother. Another method, used most in the early times, was by the sacred lot (Josh. 7:16 ff.; 1 Sam. 14:40 ff.). But witnesses

<sup>2</sup> Ewald is quite wrong in holding that the priests alone were the judges mentioned in the passage cited; see his *Antiquities*, p. 311. Against his view see DRIVER, *Deuteronomy*, *in loc.*

<sup>3</sup> See Isa. 40:23. In the early law the judges were called '*elohim*, *i. e.*, "gods" (Exod. 21:6; 22:8 f.).

were often necessary. It was as easy, however, among the Hebrews as among other peoples to procure perjurers.<sup>4</sup> The false witness was not only held in great contempt, but severe punishment was meted out to him if detected (Deut. 19:16 ff.). The only restriction in the case of witnesses was that two witnesses at least should be required to fix a crime upon anyone.<sup>5</sup> If the crime were punishable by death, the witnesses must strike the first blow<sup>6</sup> (*ibid.*, 13:9; 17:7; *cf.* John 8:7).

The most complete evidence we have as to the character of a Jewish trial falls in this period (Jer., chap. 26). The arrest was not made by officials, but by the prosecutors. They also named to the court the sentence demanded. A precedent was cited which evidently carried great weight in determining the verdict. Personal influence apparently had its part to play (vs. 24). As this is almost exactly the procedure in the trial of Jesus, it may be inferred that this system persisted in the post-exilic age. The trials were conducted in public, usually in the gate as the most frequented place. This publicity doubtless contributed something to the securing of justice.

3. *Crimes and punishment.*—There were many offenses punishable by death among the Hebrews. The favorite method was by stoning.<sup>7</sup> The execution was carried out by the crowd, the witnesses throwing the first stone. Burning was rare as a punishment among the Hebrews. When it occurred, however, the criminal was first killed and then the body burned (1 Kings 13:2; Am. 2:1). In the case of murder the execution was

<sup>4</sup> The difficulty of obtaining trustworthy evidence is clear from the delineation of the ideal judge, who will not be limited to the evidence of the senses, and therefore will not be easily imposed upon (Isa. 11:3).

<sup>5</sup> In the constitution of the United States it is provided that a person can be convicted of treason only by the testimony of two witnesses, or by confession in open court (Art. III, sec. 3).

<sup>6</sup> EWALD, *Antiq.*, p. 43, explains this law as growing out of the ancient custom for the one who offered a sacrifice to lay his hand upon the head of the victim. NOWACK, *Heb. Arch.*, p. 328, note 2, is more probably correct in explaining it as a safeguard against "frivolous testimony."

<sup>7</sup> Deut. 13:10; 17:5, for idolatry; 21:21, a rebellious son; 22:21, pre-nuptial infidelity; 22:23 f., adultery; *cf.* Ezek. 16:40; 23:47.

commonly by sword, spear, or club; and the executioner was the *go'el*, the next of kin to the victim. Upon this person was laid the duty of avenging the blood of his kinsman. The Hebrew law restricted the general primitive custom by appointing asylums from which the refugee could only be taken by a judicial process. The *go'el* was, however, free to slay the murderer before he reached the city of refuge, if he caught him. If the asylum was reached by the criminal, and the court decided that he had committed intentional murder, he was given up to the *go'el* for execution (Deut. 19 : 1-13).

This law makes no provision for the release of a homicide from the city of refuge. The law of blood revenge was so ingrained in the Semitic mind that the effect of Hebrew legislation was to throw protection around those unfortunates who committed manslaughter unintentionally or justifiably. For the rude Semite was not likely to draw fine distinctions. This law virtually imprisoned the homicide until he deemed it safe to venture within reach of the avenger. A later law (Numb., chap. 35) limits the confinement to the life of the high priest, and tries to correct another abuse by forbidding a money settlement of a blood feud. The congregation, *i. e.*, the assembly of the people at the city of refuge,<sup>8</sup> decides whether the homicide is to be given up or not. In the earlier law the elders of his city seem to have determined that question.<sup>9</sup>

Another very persistent law among the Hebrews, as among other primitive peoples,<sup>10</sup> was the *lex talionis*. But here, too, the Hebrew legislators aimed at restriction in the interest of greater protection to the innocent. In Deuteronomy the law is applied only to the case of the false witness, upon whom the same punishment was to be inflicted that he sought for another (19 : 21).

<sup>8</sup> Dillmann supposes the community of the homicide to be meant in Numb. 35 : 12, 24, explaining the passage to harmonize with Deut. 19 : 12 (*Comm. on Numb., Deut., and Josh., in loc.*). The interpretation given above seems to me preferable.

<sup>9</sup> That the Hebrew laws greatly modified for the better the primitive customs in blood feuds may be clearly seen by comparing with the above the early Arabian usage as described by W. ROBERTSON SMITH in his *Kinship and Marriage*, pp. 22 f.

<sup>10</sup> See Dillmann on Exod. 21 : 23.

It is possible, however, that the law of *lex talionis* is quoted here only as the statement of a general principle of retaliation. In the Law of Holiness the *lex talionis* is given a wider application, extending to any bodily injury which one person might do to another.

The primitive Semites, as the *lex talionis* shows, made bodily injuries a favorite mode of punishment. Among the wild Arabs in southern Babylonia today the penalty for robbery is cutting off the hand (Peters, *Nippur*, Vol. II, pp. 276 f.). The Hebrews put strict limitations upon this method of punishment. The only case in which cutting off the hand is enjoined is a particularly obnoxious crime of a woman (Deut. 25:12). "This is the only case, except the *jus talionis*, where the law ordains bodily mutilation as a punishment" (Dillmann, *in loc.*).

Beating, however, was a very common form of punishment,<sup>11</sup> especially in our period and later. It was often inflicted in addition to other penalties (Jer. 20:2; 37:15). Deuteronomy, in harmony with its efforts to safeguard the rights of the accused, limits the number of blows to forty, and provides that they shall be accurately counted (25:3). In the time of Josephus this had come to mean forty save one (*Antiq.*, Vol. IV, 8, 21; *cf.* 2 Cor. 11:24).

There were various other modes of punishment practiced by the Hebrews. Thus we know of the stocks (Jer. 20:2; 29:26); confiscation or destruction of property (1 Kings 21:15; 1 Sam. 11:7; Ezra 10:8); imprisonment<sup>12</sup> (Jer. 32:2; 37:15; 1 Kings 22:27); deposition from office (Isa. 22:19ff.; Jer. 29:26); excommunication, a penalty unknown in the pre-exilic period (Ezra 10:8); and pulling out the hair—likewise, so far as known, confined to a late period (Isa. 50:6; Neh. 13:25). We find a reference to hanging a body on a tree in Deut. 21:22. The criminal was not put to death in this way, however, but the

<sup>11</sup>See Exod. 21:20; Prov. 10:13; 19:29; Isa. 50:6.

<sup>12</sup>Punishment by confinement was rare in the earlier days, in spite of its predominance in Egypt, whence the Israelites might have derived such customs. The earliest form of imprisonment is enforced residence in a particular city (1 Kings 2:36).



dead body was hung up as a mark of deep shame, and as a note of warning to others. With this may be compared the case of burning mentioned above.

The penal system of the Hebrews was designed with a two-fold object: to make sure that no sin should go unpunished, as that would leave a stain upon the land from which the whole people would suffer; and to safeguard the rights of the accused. There was at least a vague effort to put into practice the modern principle that a man is presumably innocent until proved guilty. But the Hebrews could not rid themselves of the ancient deep-seated notion that guilt rested upon the whole people until a sin was expiated (see, *e. g.*, Gen. 4:10; Josh. 7:1). Therefore a rite was prescribed to be used in case murder was committed by an undiscoverable hand<sup>13</sup> (Deut. 21:1 ff.).

All modern civilized nations provide that the crimes of the fathers shall not be visited upon their children. Crimes are not allowed to work corruption of blood, however much an innocent child may unjustly suffer at the hands of an indiscriminating public opinion. The decalogue implies that the children were punishable for the sins of their fathers, even to the third and fourth generation. Corruption of blood is expressly sanctioned in the case of bastards and foreigners (Deut. 23:2 ff.). Whether this was due to a conception of the solidarity of the race or not, it was modified in later times. There is an express provision that children shall not be put to death for their fathers' sins, nor the fathers for the children's (Deut. 24:16; see also Jer. 31:29 f.; Ezek. 18:2 ff.; 2 Kings 14:6). This shows a distinct advance upon the old and common Semitic custom of exterminating the family of a criminal, as was done in the case of Achan (Josh. 7:24), and of Saul's descendants (2 Sam., chap. 21).

4. *The relation of the rich and the poor.*—Every society may be roughly divided into two classes, which may be designated by various names. I have called them the rich and the poor, not because these terms are exact, but because they are practically

<sup>13</sup>Such a rite seems to be sadly needed today in our own country, where so many unpunished murders are committed.

convenient. It is claimed by many sociologists that modern laws and legal procedure favor the strong as against the weak, the rich as against the poor. It is certainly true, also, that among the Hebrews the man who held a position of advantage was apt to use it for his own benefit; but it is also true that we find a constant effort on the part of the lawmakers to check the abuse of this power; and the prophets who express the higher conscience of the nation lift up their voice with one consent in favor of the weak.

It is possible to present a part of the evidence of this care for the weaker party in this paper. Deuteronomy absolutely forbids the loaning of money, or of anything else, to a Hebrew for interest, though interest may be exacted of a foreigner (23:19). There is clear evidence that this law was violated,<sup>14</sup> just as our laws are which forbid more than a fixed rate. All debts were outlawed in the seventh year, if the debtor was a Hebrew (Deut. 15:1 ff.). The people are enjoined not to refuse to lend to the poor because the year of release was near.<sup>15</sup> "The only notice in the Old Testament bearing on the observance of this law is the obligation undertaken by the Jews in Neh. 10:31" (Driver).

The creditor was forbidden to go into a debtor's house to receive an article given as a pledge; if the pledge was a garment, and the debtor was poor, the creditor was forbidden to keep it over night<sup>16</sup> (Deut. 24:10-13). It was forbidden to take the millstones in pledge (24:6). There was, however, no exemption of property for the debtor. Every particle of his

<sup>14</sup> Ezek. 18:13; 22:12; Isa. 24:2; Ps. 15:5; Neh. 5:7; Jer. 15:10. "I have not lent on usury, neither have men lent to me on usury; yet every one of them doth curse me," shows that the practice of taking usury led to much friction. It would appear that the custom of taking interest increased in the post-exilic age (*cf.* Matt. 25:27).

<sup>15</sup> On the question whether the year of release brought about an absolute cancellation of the debt, as I take to be its intent, or only a suspension of payment for the Sabbath year, see DRIVER, *Deuteronomy*, pp. 178 ff.

<sup>16</sup> The garment was used by the oriental as a covering at night. As wages were paid daily (Deut. 24:15), it would be possible to repay a small loan at the end of the same day on which it was made.

property, his wife and children, and even his own person, were liable to seizure and sale.

The tithe of the third year—that is, of the vegetable products—was to be held in store for the poor of the land (Deut. 14:28f.; 26:12ff.; cf. W. Robinson Smith, *Old Testament in the Jewish Church*, 2d edition, p. 362). As there is no provision for this tithe in the Priest Code, it is very likely that the attempt to enforce it had been given up. In the post-exilic period the tithe was extended to the flocks and became the exclusive property of the priests and Levites (Numb. 18:21ff.).<sup>17</sup> Provision was made that the poor should have the gleanings of the vineyard, olive trees, and harvest field (Deut. 24:19ff.). The earliest code had provided that the poor might eat what grew of itself in the seventh year, when the land was to lie fallow (Exod. 23:10f.); but in Leviticus the owner of the land was to eat this himself (25:1-7). The wayfarer was allowed to satisfy his immediate wants from the vineyard and cornfield; but was not permitted to carry any of the produce away with him (Deut. 23:24f.).

The rights of the landholder were jealously guarded. The state had no right of eminent domain.<sup>18</sup> There was an inalienable right for a family to retain its ancestral lands. If one were forced to sell land, on account of poverty, it was the right and duty of the nearest of kin to buy it (Jer. 32:7; Ruth 4:1ff.). Women who inherited land, according to a judgment preserved in a late source, were restricted in marriage to their own tribe, in order to prevent the alienation of land from the tribe (Numbers, chap. 36). The accumulation of landed estates in violation of

<sup>17</sup> In Tobit 1:8 there is a probable reference to the deuteronomic tithe for the poor: "The third tithe I gave to them to whom it was meet." Josephus knows the law, but is evidently attempting a harmony of the two codes, *Antiq.*, IV, 8, 22. There is no good evidence that the law was actually enforced. The references in Neh. 10:37; 13:5; Mal. 3:8, 10 are to the tithes of the Priest Code. It is held by some, e. g., NOWACK, *Heb. Arch.*, II, 258, that the tithe of the Priest Code, like that of Deuteronomy, covered only vegetable products.

<sup>18</sup> Naboth refused to sell his land to Ahab, and the king could not force him to part with his estate. Jezebel secured the coveted property by confiscation after Naboth had been put to death on the charge of blasphemy and *lese-majeste* (1 Kings, chap. 21).

this principle was severely denounced by Isaiah (5:8). Provision was finally made which substituted for the sale of land a lease expiring by limitation in the year of jubilee (Leviticus, chaps. 25, 27; Numb. 36:4).

5. *Trade and industrial relations.*—The Hebrews did not become in our period an important trading people. The ideals of wealth were to the last pastoral and agricultural.<sup>19</sup> The tithes were laid to the last on the produce of the soil and of the flock. There were, however, other industrial classes, as potters (Jer. 18:19), fishermen and hunters (*ibid.*, 16:16), barbers (Ezek. 5:1), carpenters and masons (2 Kings 22:6; Ezra 3:7), craftsmen and smiths (2 Kings 24:14), goldsmiths and perfumers (Neh. 3:8). There were merchants, too, who are said to have taken part in the rebuilding of the walls (Neh. 3:32), but they were probably Phœnicians, as this people seems to have controlled Jewish trade in the early post-exilic period (Neh. 13:16). The Jews, like some modern societies, seemed to look with contempt upon traders.<sup>20</sup> In fact, the common Hebrew term for trader is properly *Canaanite*. The exile had a great influence in developing the trade spirit. It was the most convenient thing for an unattached people to turn to (see Nowack, *Heb. Arch.*, I, p. 251).

The deuteronomic law prescribes that the traders, who are there assumed to be Hebrews, shall be just in their dealings. They are forbidden to have a large ephah or weight for buying and a small one for selling (Deut. 35:13 ff.; *cf.* Am. 8:5; Lev. 19:35 ff.; Mic. 6:10 f.; Prov. 16:11; Ezek. 45:10 f.). The prohibition and the references cited show pretty clearly that there was a great deal of cheating in trade. The orientals do not seem today to recognize any ethical principles in buying and selling. But it is evident that among the Hebrews there was a high ideal, little as it may have been regarded.

This article may fitly conclude with a few words about the social ideal of the Hebrew people. From the data given it must

<sup>19</sup> See, *e. g.*, Jer. 5:17; 9:10; Deut. 28; Joel, chap. 1; Ezek. 28:26.

<sup>20</sup> Ezek. 16:29, correctly rendered, as Davidson in the *Camb. Bib.*, "with the merchants' land, even Chaldea;" *cf.* 17:4; Hos. 12:7; Isa. 47:15.

be apparent that the ideal was communistic rather than individual. The idea perpetually insisted on is that the nation constitutes a family, and the relation of one member to another is that of brother. Hence it is that the Hebrew might make exactions of the foreigner which were prohibited in the case of a fellow-Hebrew. The scandal caused by the oppression of the poor in Nehemiah's day was due to the ill-treatment of brethren: "Our flesh is as the flesh of our brethren, our children as their children" (Neh. 5:5). The governor denounced the oppressors because they exacted usury of their brothers: "Would ye even sell your brethren?" he asks in righteous indignation.

It is true that the tie of blood kinship was very strong among other nations than the Hebrew;<sup>21</sup> but the relation growing out of these ties was purified by the higher ethical conceptions of the Hebrews, and the bond was more comprehensive. The development of the idea of Abraham as the father of the race, and the extension of the term brother to mean any Hebrew, were important factors in forming the conception of the solidarity of the peculiar people. From this bond we can easily understand much of the good in the social life of the people. Modern sociologists may learn much from a study of the Hebrew ideals.

<sup>21</sup> See W. R. SMITH, *Kinship and Marriage*, and H. C. TRUMBULL, *Blood Covenant*.